



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEUTSCHE BANK NATIONAL TRUST) NO. CV 14-643-UA (DUTYx)
COMPANY, AS TRUSTEE OF THE)
RESIDENTIAL ASSET) ORDER SUMMARILY REMANDING
SECURITIZATION TRUST 2006-)
A9CB, MORTGAGE PASSTHROUGH)
CERTIFICATES, SERIES 2006-I) IMPROPERLY-REMOVED ACTION
UNDER THE POOLING AND)
SERVICING AGREEMENT DATED)
JULY 1, 2006,)
Plaintiff,)
v.)
DIANE TENNER,)
AND DOES 1 THROUGH 5,)
Defendants.)

The Court summarily remands this unlawful detainer action to state court summarily because defendant DIANE TENNER ("Defendant") removed it improperly.

On January 28, 2014, Defendant, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this

1 Court and also presented an application to proceed in forma
2 pauperis. The Court has denied the latter application under
3 separate cover because the action was not properly removed. To
4 prevent the action from remaining in jurisdictional limbo, the
5 Court issues this Order to remand the action to state court.

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7 Under 28 U.S.C. § 1331, district courts "have original
8 jurisdiction of all civil actions arising under the Constitution,
9 laws, or treaties of the United States." Federal jurisdiction is
10 presumed absent unless defendant, as the party seeking to invoke
11 the court's jurisdiction, shows that plaintiff has either alleged
12 a federal cause of action, American Well Works Co. v. Layne &
13 Bowler Co., 241 U.S. 257, 260 (1916), a state cause of action that
14 turns on a substantial dispositive issue of federal law, Franchise
15 Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1, 9
16 (1983), or a state cause of action that Congress has transformed
17 into an inherently federal cause of action by completely preempting
18 the field of its subject matter. Metropolitan Life Ins. Co. v.
19 Taylor, 481 U.S. 58, 65 (1987). Under 28 U.S.C. § 1332(a),
20 "district courts also have original jurisdiction of all civil
21 actions where the matter in controversy exceeds the sum or value of
22 \$75,000, exclusive of interest and costs, and is between . . .
23 citizens of different states." See also Matheson v. Progressive
24 Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir. 2003).

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26 Defendant's notice of removal only asserts that removal is
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1 proper based upon federal question jurisdiction, alleging that the
2 complaint was based on a defective notice under 12 U.S.C. § 5220.
3 (Notice at 2). However, the underlying unlawful detainer action
4 does not raise any federal legal question. Nor does it appear that
5 federal law is a necessary element of any of plaintiff's claims.
6 See Wells Fargo Bank v. Lapeen, No. C 11-01932 LB, 2011 WL 2194117,
7 *3 (N.D. Cal. June 6, 2011) ("an unlawful detainer action, on its
8 face, does not arise under federal law but is purely a creature of
9 California law," citing Wescom Credit Union v. Dudley, No. CV 10-
10 8203-GAF (SSx), 2010 WL4916578, *2 (C.D. Cal. Nov. 22, 2010)
11 (remanding an action to state court for lack of subject matter
12 jurisdiction where plaintiff's complaint contained only an unlawful
13 detainer claim). Moreover, "'the existence of a defense based upon
14 federal law is insufficient to support federal-question
15 jurisdiction.'" Hall v. North American Van Lines, Inc., 476 F.3d
16 683, 687 (9th Cir. 2007) (quoting Wayne v. DHL Worldwide Express,
17 294 F.3d 1179, 1183 (9th Cir. 2002)).

18
19 Finally, defendant has not alleged complete diversity of
20 citizenship between the parties and has not established that the
21 amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332(a). On
22 the contrary, the prayer for relief in the unlawful-detainer
23 complaint alleges damages of \$60.00 per day for each day that
24 defendants remain in possession from the expiration of the three-
25 day notice to quit, served on Defendants on or about December 12,
26 2013, through entry of judgment. See 28 U.S.C. §§ 1332, 1441(b).
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1 Accordingly, the Court lacks subject matter jurisdiction over
2 the instant action and removal of this action is improper. See 28
3 U.S.C. § 1441(a); Exxon Mobil Corp v. Allapattah Svcs., Inc., 545
4 U.S. 546, 563 (2005).

Defendant is further notified and warned that any subsequent attempts to remove the underlying state unlawful detainer action to this Court will be improper and will constitute vexatious conduct that the Court will address by way of punitive remedial measures, which may include having defendant designated as a vexatious litigant and barred from commencing any further removal actions with respect to the underlying state unlawful detainer action.

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14 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to
15 the Superior Court of California, County of Los Angeles, 1725 Main
16 Street, Room 232, Santa Monica, California 90401, for lack of
17 subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2)
18 that the Clerk send a certified copy of this Order to the state
19 court; and (3) that the Clerk serve copies of this Order on the
20 parties.

22 IT IS SO ORDERED.

DATED: 2/4/14

GEORGE H. KING
CHIEF UNITED STATES DISTRICT JUDGE